

VICTOR HOKE,

Plaintiff,

v.

GENERAL MOTORS,

Defendant.

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No. 4:07CV1095 CDP

This matter is before the Court on plaintiff's motion to proceed in forma pauperis. Upon review of the financial information provided with the motion, the Court finds that the motion should be granted. Additionally, the Court is required to review the complaint and to dismiss it if it is frivolous, malicious, or fails to state a claim upon which relief can be granted. 28 U.S.C. § 1915(e). After reviewing the complaint, the Court finds that it is subject to dismissal. However, because plaintiff is proceeding pro se, the Court will allow plaintiff to file an amended complaint.

The complaint does not comply with Rules 8 or 10 of the Federal Rules of Civil Procedure. Rule 8(a) requires that a complaint contain “a short and plain statement of the claim showing that the pleader is entitled to relief, and . . . a demand for judgment for the relief the pleader seeks.” Rule 8(e) requires that “[e]ach averment of a pleading shall be simple, concise, and direct.” And Rule 10(b) requires that “[a]ll

averments of claim or defense shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a statement of a single set of circumstances.”

The complaint is long and rambling. It does not contain a short and plain statement showing that plaintiff is entitled to relief. Nor does it contain a demand for judgment for relief plaintiff seeks. The allegations are not simple, concise, or direct. And there are no numbered paragraphs. In consequence, the complaint is subject to dismissal under Rule 41(b) and 28 U.S.C. § 1915(e).

Plaintiff shall have 30 days from the date of this Order to file an amended complaint. Plaintiff is warned that the filing of an amended complaint replaces the original complaint, and claims that are not realleged are deemed abandoned. E.g., In re Wireless Telephone Federal Cost Recovery Fees Litigation, 396 F.3d 922, 928 (8th Cir. 2005). If plaintiff fails to file an amended complaint within 30 days, the Court will dismiss this action without prejudice.

Accordingly,


IT IS HEREBY ORDERED that plaintiff’s motion to proceed in forma pauperis [#2] is **GRANTED**.

IT IS FURTHER ORDERED that the Clerk shall not issue process or cause process to issue at this time.

IT IS FURTHER ORDERED that plaintiff shall file an amended complaint **no later than 30 days from the date of this Order.**

IT IS FURTHER ORDERED that if plaintiff fails to timely file an amended complaint, the Court shall dismiss this action without prejudice.

Dated this 19th day of June, 2007.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE